

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9891 of 1995

WITH

CIVIL APPLICATION NO. 9329 of 1996

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CIVIL APPLICATION NO. 9356 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PANCHLOK APARTMENTS OWNERS ASSOCIATION

Versus

CHARITY COMMISSIONER GUJARAT STATE

Appearance:

M/S THAKKAR ASSOC. for Petitioner
MR KC SHAH LD. AGP for Respondent No. 1
MR KV SHELAT for Respondent No. 3
MR UDAY BHATT, L.A. for AY KOGJE for the applicant
in CAs.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 06/11/96

ORAL JUDGEMENT

By Civil Application No. 9329 of 1996 applicant
A.N. Shelia has prayed for joining him as a party

respondent in the main matter, namely S.C.A. No. 9891 of 1995. The petitioner's learned advocate, however, seeks to withdraw this petition which was admitted by order dated 7/3/1996 and according to which the Charity Commissioner was directed to dispose of the application pending before him within a period of 3 months from the said date keeping open the authority of the Charity Commissioner to assess the value of the property except by way of public auction or re-advertisement.

2. When Mr. Pahwa, learned advocate for the petitioner has prayed for withdrawal of the main petition on the ground that the learned Charity Commissioner had passed order of granting sanction, Mr. Uday Bhatt, learned advocate appearing for the applicant in the Civil Application brought to the notice of the Court that the learned Charity Commissioner has not considered the applicant's application pursuant to the following order passed in Civil Application No. 9356 of 1996 :-

"The urgency submitted on behalf of the applicant is that some order is likely to be passed by the Ld. Charity Commissioner/Joint Charity Commissioner during the course of the day. It would be open to the Applicant to move an appropriate application before the Ld. Charity Commissioner. No further indulgence can be granted at this stage."

Now that the Charity Commissioner/Joint Charity Commissioner has passed the order dated 2/11/1996, it will be open to the applicant of the Civil Application to make his grievance before appropriate forum about non-consideration of his application moved pursuant to the above referred order. When the petition is sought to be withdrawn, no indulgence can be shown in a Civil Application. However, this will not prejudice the applicant's cause, if any, in the appropriate proceedings which he might take in accordance with law.

Subject to the aforesaid observation, the petition is permitted to be withdrawn. Rule discharged. No order as to cost. Both the Civil Applications stand disposed of with liberty to the applicant to take appropriate proceedings in accordance with law, if he feels aggrieved by the order passed by the learned Charity Commissioner.

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